

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.326 OF 2020

Vishwajit Ramesh Kasar = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT/S

Mr.SR Wakale, Advocate for Applicant/s
Mr.VM Kagne,APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 9th December, 2020.

PER COURT:-

1. Present application has been filed by the original accused for getting anticipatory bail under Section 438 of Code of Criminal Procedure as he is apprehending his arrest in connection with CR. No.1208 of 2019 dt.12-08-2019 registered with Kotwali Police Station, Dist. Ahmednagar for the offence punishable under Section 419,420, 465,468,470,471 r/w.34 of Indian Penal Code.

2. Heard learned Advocate Shri S.A.Wakale for the applicant and learned APP Shri V.M.Kagne for the State.

3. It has been vehemently submitted on behalf of applicant that the First Information Report lodged by Meena Prakash Pant would show that she had not arrayed present applicant as accused. His name is not mentioned. It has been alleged that

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informant is the owner of plot No.12 from Sr.No. 106/2, situated at Buradgaon. She decided to sell the plot as she permanently resides in Dehradun in Uttarakhand. She had purchased it in the year 1981. When she took out 7x12 extract on-line, she found entry in the name of one Raviraj Tupe and Ajit Thorat. She asked her sister to make an inquiry with Sub-Registrar's office. She came to know that the said plot has been sold under her name on 12-11-2018. In fact, she has not executed any such document. She realized that some dummy had acted in her name and executed the said document. She has, therefore, lodged the said report. The informant has not assigned any role to the applicant. His physical custody is not required. He deserves to be released on bail and he is ready to abide by any terms that may be imposed by this Court.

4. Per contra, learned APP strongly opposed the application and submitted that the investigation is still pending. Statements of certain witnesses have been recorded and they have revealed that present applicant had taken active part in showing the plot to the buyer. He is the partner of one Sunil Adsare. Accused No.2 and 3 had decided to purchase the plot jointly for Rs.12,55,000/-. They had contributed Rs.6,00,000/- each. The said amount has been given to present applicant and Sunil in cash. In fact, present applicant is the master-mind. He did not come forward and get himself involved in the documents. He has raised the dummy lady who impersonated the

informant. It has been transpired that there is no person in existence by name Santosh Rambhau Shinde. All the witnesses were created by present applicant. Unless his custody is taken, real and genuine persons, who executed his plan for the alleged crime, will not be ascertained.

5. It is to be noted from the contents of the FIR that informant is not aware about the persons who have committed crime. She has only contended that she has not executed any such document and she has not received any amount as sale-price. The investigation has revealed the name of the present applicant. Though in a strict sense the disclosure of the name of accused by a co-accused is inadmissible, but it can be seen from the facts of the case that those facts are giving a clue for the further investigation. There are special facts which are within the knowledge of the accused and motive lies in his mind. It has been transpired that present applicant has received the booty from the purchaser. Statement of witnesses would also disclose that Bond-Writer has prepared the document on the say of present applicant. Facts of the case would also reveal that even a fake Adhar Card was prepared to represent that the lady executing the document is informant. There appears to be strong evidence against the applicant. It is also submitted by prosecution that present applicant is habitual offender and is involved in similar offences. About 14 cases are registered against him since 2015. He has also been convicted

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in a case. Therefore, on the said count, he is not entitled to get bail under Section 438 of Code of Criminal Procedure. The application deserves to be rejected. Accordingly, it is rejected.

(SMT. VIBHA KANKANWADI,J.)

BDV